

Federal Deposit Insurance Corporation

§ 336.11

§ 336.7 Employee responsibility, counseling and distribution of regulation.

(a) Each employee is responsible for being familiar with and complying with the provisions of this part.

(b) The Ethics Counselor shall provide a copy of this part to each new employee within 30 days of initial appointment.

(c) An employee who believes that he or she may not be in compliance with the minimum standards provided under § 336.5(a)(1) through (4), or who receives a demand letter from the FDIC for any reason, shall make a written report of all relevant facts to the Ethics Counselor within ten (10) business days after the employee discovers the possible noncompliance, or after the receipt of a demand letter from the FDIC.

(d) The Ethics Counselor shall provide guidance to employees regarding the appropriate statutes, regulations and corporate policies affecting employee's ethical responsibilities and conduct under this part.

(e) The Ethics Counselor shall provide the Personnel Services Branch with notice of an employee's non-compliance.

§ 336.8 Sanctions and remedial actions.

(a) Any employee found not in compliance with the minimum standards except as provided in paragraph (b) of this section below shall be terminated and prohibited from providing further service for or on behalf of the FDIC in any capacity. No other remedial action is authorized for sanctions for non-compliance.

(b) Any employee found not in compliance with the minimum standards under § 336.5(a)(3) based on financial irresponsibility as defined in § 336.3(i)(1) shall be terminated consistent with applicable procedures and prohibited from providing future services for or on behalf of the FDIC in any capacity, unless the employee brings him or herself into compliance with the minimum standards as provided in paragraphs (b) (1) and (2) of this section.

(1) Upon written notification by the Corporation of financial irresponsibility, the employee will be allowed a reasonable period of time to establish an agreement that satisfies the cred-

itor and the FDIC as to resolution of outstanding indebtedness or otherwise resolves the matter to the satisfaction of the FDIC prior to the initiation of a termination action.

(2) As part of the agreement described in paragraph (b)(1) of this section, the employee shall provide authority to the creditor to report any violation by the employee of the terms of the agreement directly to the FDIC Ethics Counselor.

§ 336.9 Finality of determination.

Any determination made by the FDIC pursuant to this part shall be at the FDIC's sole discretion and shall not be subject to further review.

Subpart C—One-Year Restriction on Post-Employment Activities of Senior Examiners

SOURCE: 70 FR 69639, Nov. 17, 2005, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1819 and 1820(k).

§ 336.10 Purpose and scope.

This subpart applies to officers or employees of the FDIC who are subject to the post-employment restrictions set forth in section 10(k) of the Federal Deposit Insurance Act, 12 U.S.C. 1820(k), and implements those restrictions as they apply to officers and employees of the FDIC.

§ 336.11 Definitions.

For purposes of this subpart:

(a) *Bank holding company* has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)).

(b) A *consultant* for an insured depository institution or other company shall include only individuals who work directly on matters for, or on behalf of, such institution or other company.

(c) *Control* has the meaning given to such term in section 336.3(b), and a foreign bank shall be deemed to control any insured branch of the foreign bank.

(d) *Depository institution* means any bank or savings association, including a branch of a foreign bank, if such branch is located in the United States.

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(e) *Foreign bank* means any bank or company described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)).

(f) *Savings and loan holding company* has the meaning given to such term in section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)).

(g) A *senior examiner* for an insured depository institution means an officer or employee of the FDIC—

(1) who has been authorized by the FDIC to conduct examinations or inspections of insured depository institutions on behalf of the FDIC;

(2) who has been assigned continuing, broad, and lead responsibility for the examination or inspection of the institution;

(3) who routinely interacts with officers or employees of the institution or its affiliates; and

(4) whose responsibilities with respect to the institution represent a substantial portion of the FDIC officer or employee's overall responsibilities.

§ 336.12 One-year post-employment restriction.

(a) *Prohibition.* An officer or employee of the FDIC who serves as a senior examiner of an insured depository institution for at least 2 months during the last 12 months of that individual's employment with the FDIC may not, within 1 year after the termination date of his or her employment with the FDIC, knowingly accept compensation as an employee, officer, director, or consultant from—

(1) The insured depository institution; or

(2) Any company (including a bank holding company or savings and loan holding company) that controls such institution.

(b) *Waivers.* The post-employment restrictions in paragraph (a) of this section will not apply to a senior examiner if the FDIC Chairperson certifies in writing and on a case-by-case basis that a waiver of the restrictions will not affect the integrity of the FDIC's supervisory program.

(c) *Effective Date.* The post-employment restrictions in paragraph (a) of this section will not apply to any officer or employee of the FDIC, or any former officer or employee of the FDIC,

who ceased to be an officer or employee of the FDIC before December 17, 2005.

§ 336.13 Penalties.

(a) *Penalties under section 10(k) of the FDI Act.* A senior examiner of the FDIC who violates the post-employment restrictions set forth in § 336.12 shall be subject to the following penalties—

(1) An order—

(i) Removing such person from office or prohibiting such person from further participation in the affairs of the relevant insured depository institution or company (including a bank holding company or savings and loan holding company) that controls such institution for a period of up to five years, and

(ii) Prohibiting any further participation by such person, in any manner, in the affairs of any insured depository institution for a period of up to five years; or

(2) A civil monetary penalty of not more than \$250,000; or

(3) Both.

(b) *Enforcement by appropriate Federal banking agency of hiring entity.* Violations of § 336.12 shall be enforced by the appropriate Federal banking agency of the depository institution, depository institution holding company, or other company at which the violation occurred, as determined under section 10(k)(6), which may be an agency other than the FDIC.

(c) *Scope of prohibition orders.* Any senior examiner who is subject to an order issued under paragraph (a)(1) of this section shall, as required by 12 U.S.C. 1820(k)(6)(B), be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under section 8(e).

(d) *Other penalties.* The penalties set forth in paragraph (a) of this section are not exclusive, and a senior examiner who violates the restrictions in § 336.12 may also be subject to other administrative, civil, or criminal remedies or penalties as provided by law.

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

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